



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/436,348	11/09/99	GRILLO-LOPEZ	4 012712-644

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HM12/0209

EXAMINER

SCHMIDPEN, P.	ART UNIT	PAPER NUMBER
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10  
1644  
DATE MAILED:

02/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. 09/436,348	Applicant(s) Grillo-Lopez et al.
Examiner Ron Schwadron, Ph.D.	Group Art Unit 1644

Responsive to communication(s) filed on 10/13/2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-14 are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. The amendment filed 10/13/2000 has necessitated the following species election requirement. It is presumed that newly added claims 10 and 11 should depend from claim 7, not claim 1, because claim 1 does not recite a step (1) or (3).
2. Claim 11 is generic to a plurality of disclosed patentably distinct species comprising
  - a) the method of claim 11 that uses an antiCD19 antibody
  - b) the method of claim 11 that uses an antiCD20 antibody.

The aforementioned antibodies recognize different chemical distinct molecules (eg. CD19 versus CD20). It is noted that claims 1-10,12-14 also encompass use of an antiCD20 antibody while claims 7-10,12,14 also encompass use of a antiCD19 antibody.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

3. Claim 12 is generic to a plurality of disclosed patentably distinct species comprising the method which uses
  - a) chimeric antibody
  - b) primate antibody
  - c) primatized antibody
  - d) humanized antibody
  - e) human antibody

The aforementioned antibodies are structurally and functionally different.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

4. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other

Art Unit 1644

invention.

5. Papers related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Papers should be faxed to Group 1600 at (703) 308-4242.

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Monday through Thursday from 7:30 to 6:00. A message may be left on the examiners voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ms Christina Chan can be reached on (703) 308-3974. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

RONALD B. SCHWADRON  
PRIMARY EXAMINER  
GROUP 1600 1600



Ron Schwadron, Ph.D.  
Primary Examiner  
Art Unit 1644  
February 8, 2001